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**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

☐ Declaration Submitted with Initial Filing OR ☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number F-198

First Named Inventor Ralph;

**COMPLETE IF KNOWN**

Application Number 09 / 906,127

Filing Date 7/16/2001

Group Art Unit 3738

Examiner Name Landrem, K.

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Insertion Tool for use with Intervertebral Spacers

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 7/16/2001 as United States Application Number or PCT International

Application Number 09/906,127 and was amended on (MM/DD/YYYY) 4/24/2002 and 5/16/2002 (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 21 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**DECLARATION — Utility or Design Patent Application**Direct all correspondence to: ☒ Customer Number or Bar Code Label  OR ☐ Correspondence address below

Name

Address

City

State

ZIP

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR : ☐ A petition has been filed for this unsigned inventorGiven Name  
(first and middle [if any])

James D.

Family Name  
or Surname

Ralph;

Inventor's  
Signature

Date

5/12/03

Residence: City

Lehigh Valley,

State

PA

Country

US

Citizenship

US

Mailing Address

P.O. Box 20887

City

Lehigh Valley,

State

PA

ZIP

18002

Country

US

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventorGiven Name  
(first and middle [if any])

Stephen

Family Name  
or Surname

Tatar;

Inventor's  
Signature

Date

5/12/03

Residence: City

Montville,

State

NJ

Country

US

Citizenship

US

Mailing Address

45 Upper Mountain Avenue

City

Montville,

State

NJ

ZIP

07045

Country

US

☒ Additional inventors are being named on the 1 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

Please type a plus sign (+) inside this box → ☐

F-198

PTO/SB/02A (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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<b>DECLARATION</b>	<b>ADDITIONAL INVENTOR(S)</b> Supplemental Sheet Page <u>1</u> of <u>1</u>
--------------------	--

Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Thomas J.		Errico	
Inventor's Signature <i>Thomas Errico</i>		Date <u>5/12/03</u>	
Residence: City	Summit	State	NJ
		Country	US
Citizenship		US	
Mailing Address			
5 Crest Acre Court			
Mailing Address			
City	Summit	State	NJ
		ZIP	07901
		Country	US
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Inventor's Signature		Date	
Residence: City		State	Country
			Citizenship
Mailing Address			
Mailing Address			
City		State	Country
		ZIP	
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Inventor's Signature		Date	
Residence: City		State	Country
			Citizenship
Mailing Address			
Mailing Address			
City		State	Country
		ZIP	

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Please type a plus sign (+) inside this box → +

PTO/SB/81 (02-01)

Approved for use through 10/31/2002. OMB 0851-0035

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## POWER OF ATTORNEY OR AUTHORIZATION OF AGENT

Application Number	
Filing Date	2/4/2004
First Named Inventor	Ralph;
Title	Insertion Tool for use with Intervertebral Spacers
Group Art Unit	
Examiner Name	
Attorney Docket Number	F-308

I hereby appoint:

☒ Practitioners at Customer Number

36402

Place Customer  
Number Bar Code  
Label here

OR

☐ Practitioner(s) named below:

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☒ The above-mentioned Customer Number.

OR

☐ Practitioners at Customer Number

Place Customer  
Number Bar Code  
Label here

☐ Firm or  
Individual Name

Address

Address

City

State

Zip

Country

Telephone

Fax

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

### SIGNATURE of Applicant or Assignee of Record

Name Joseph P. Errico, CEO, SpineCore, Inc.

Signature

Date

2/4/2004

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

Burden Hour Statement: This form is estimated to take 3 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: James D. Ralph; Stephen Tatar; Thomas J. ErricoApplication No./Patent No.: \_\_\_\_\_ Filed/Issue Date: 2/4/2004Entitled: Insertion Tool for use with Intervertebral SpacersSpineCore, Inc., a Delaware corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Inventors To: SpineCore, LLCThe document was recorded in the United States Patent and Trademark Office at  
Reel 012006, Frame 0142, or for which a copy thereof is attached.2. From: SpineCore, LLC To: Third Millennium Engineering, LLCThe document was recorded in the United States Patent and Trademark Office at  
Reel 012850, Frame 0992, or for which a copy thereof is attached.3. From: Third Millennium Engineering, LLC To: SpineCore, Inc.The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☐ Copies of assignments or other documents in the chain of title are attached.  
[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

2/4/2004

Date

Joseph P. Errico,

Typed or printed name

Signature

CEO, SpineCore, Inc.

Title

**ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (the "Agreement") is effective January 21, 2003 (the "Effective Date") and is among Third Millennium Engineering, LLC., a Delaware limited liability company of Summit, New Jersey ("Millennium"), Third Millennium Enterprises, LLC ("Enterprises") and SpineCore, Inc., a Delaware corporation of Summit New Jersey (the "Company").


Millennium or Enterprises owns or controls certain inventions which are embodied by or encompassed in certain issued patents and pending patent applications, as identified in attached Schedule (collectively, the "Inventions").

For good and sufficient consideration, Millennium and Enterprises hereby irrevocably sells and assigns to the Company, and the Company hereby assumes, Millennium's and Enterprises' entire right, title, and interest in the Inventions throughout the world, and in and to all applications for patent and patents for the Inventions, in all countries of the world, including all divisions, reissues, continuations, substitutions and extensions thereof, and all rights arising under or pursuant to any and all international agreements, treaties or laws relating to the protection of industrial property, including rights of priority, resulting from the filing of any of said applications.


Attachment A (Short Form Assignment and Assumption Agreement)  
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date set forth above.


Third Millennium Engineering, LLC

  
By: Joseph P. Ervino, Esq.  
Title: Manager  
Date: 1/21/03

SpineCore, Inc.

  
By: Joseph P. Ervino, Esq.  
Title: CEO  
Date: 1/21/03

Third Millennium Enterprises, LLC

  
By: Joseph P. Ervino, Esq.  
Title: Manager  
Date: 1/21/03

**Attachment A (Short Form Assignment and Assumption Agreement)**

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**Schedule of Patents and Patent Applications**

<b>Title</b>	<b>Country</b>	<b>Particulars</b>
Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint With a Solid Ball and Compression Locking Post	USA	US Application Serial No. 10/256,160  Filed 26-Sep-2002
Artificial Intervertebral Disc Having a Captured Ball and Socket Joint With a Solid Ball and Compression Locking Post	USA	US Application Serial No. 10/294,981  Filed 14-Nov-2002
Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint With a Compression Locking Post and a Solid Ball Having a Protrusion	USA	US Application Serial No. 10/294,985  Filed 14-Nov-2002
Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint with a Solid Ball, a Compression Locking Post and an Interference Pin	USA	US Application Serial No. 10/294,986  Filed 14-Nov-2002
Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint with a Solid Ball, a Compression Locking Post and an Interference Ball Bearing	USA	US Application Serial No. 10/294,989  Filed 14-Nov-2002
Artificial Intervertebral Disc Having a Captured Ball and Socket Joint With a Solid Ball and Retaining Cap	USA	US Application Serial No. 10/294,983  Filed 14-Nov-2002
Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint With a Solid Ball and Retaining Cap	USA	US Application Serial No. 10/294,982  Filed 14-Nov-2002

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
<b>Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint With a Retaining Cap and a Solid Ball Having a Protrusion</b>	USA	US Application Serial No. 10/294,984  Filed 14-Nov-2002
<b>Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint with a Solid Ball, a Retaining Cap, and an Interference Pin</b>	USA	US Application Serial No. 10/294,980  Filed 14-Nov-2002
<b>Artificial Intervertebral Disc Having Limited Rotation Using a Captured Ball and Socket Joint with a Solid Ball, a Retaining Cap, and an Interference Ball Bearing</b>	USA	US Application Serial No. 10/294,988  Filed 14-Nov-2002
<b>Intervertebral Spacer Device</b>	USA	United States Patent No. 5,989,291  Issued 23-Nov-1999
<b>Intervertebral Spacer Device Having a Radially Thinning Belleville Spring</b>	USA	US Application Serial No. 09/968,047  Filed 1-Oct-2001
<b>Intervertebral Spacer Device Utilizing a Belleville Washer Having Radially Extending Grooves</b>	USA	US Application Serial No. 09/968,046  Filed 1-Oct-2001
<b>Intervertebral Spacer Device Having a Radially Thinning Slotted Belleville Spring</b>	USA	US Application Serial No. 09/968,045  Filed 1-Oct-2001
<b>Intervertebral Spacer Device Utilizing a Spirally Slotted Belleville Washer Having Radially Extending Grooves</b>	USA	US Application Serial No. 09/970,479  Filed 4-Oct-2001

**Attachment A (Short Form Assignment and Assumption Agreement)**

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
<b>Intervertebral Spacer Device Utilizing a Belleville Washer Having Radially Spaced Concentric Grooves</b>	<b>USA</b>	US Application Serial No. 09/974,154  Filed 11-Oct-2001
<b>Intervertebral Spacer Device Utilizing a Spirally Slotted Belleville Washer Having Radially Spaced Concentric Grooves</b>	<b>USA</b>	US Application Serial No. 09/975,471  Filed 11-Oct-2001
<b>Intervertebral Spacer Device Utilizing a Spirally Slotted Belleville Washer and a Rotational Mounting</b>	<b>USA</b>	US Application Serial No. 10/040,801  Filed 7-Jan-2002
<b>Tension Bearing Artificial Disc Providing a Centroid of Motion Centrally Located Within an Intervertebral Space</b>	<b>USA</b>	US Application Serial No. 10/151,280  Filed 20-May-2002
<b>Artificial Intervertebral Disc Utilizing a Ball Joint Coupling</b>	<b>USA</b>	US Application Serial No. 10/175,417  Filed 19-Jun-2002
<b>Artificial Intervertebral Disc Having a Slotted Belleville Washer Force Restoring Element</b>	<b>PCT</b>	PCT Application Serial No. PCT/US02/19660  Filed 19-Jun-2002
<b>Artificial Intervertebral Disc Having a Grooved Belleville Washer Force Restoring Element</b>	<b>PCT</b>	PCT Application Serial No. PCT/US02/19654  Filed 19-Jun-2002
<b>Artificial Intervertebral Disc Having a Slotted Belleville Washer Force Restoring Element</b>	<b>USA</b>	US Application Serial No. 10/177,013  Filed 21-Jun-2002
<b>Intervertebral Spacer Device Having Arch Shaped Spring Elements</b>	<b>USA</b>	US Application Serial No. 09/982,148

**Attachment A (Short Form Assignment and Assumption Agreement)**

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
		Filed 18-Oct-2001
Intervertebral Spacer Device Having a Domed Arch Shaped	USA	US Application Serial No. 10/035,640  Filed 9-Nov-2001
Intervertebral Spacer Device Having a Slotted Domed Arch Strip Spring	USA	US Application Serial No. 10/035,614  Filed 9-Nov-2001
Intervertebral Spacer Device Having a Slotted Partial Circular Domed Arch Strip Spring	USA	US Application Serial No. 10/035,669  Filed 9-Nov-2001
Intervertebral Spacer Device Having a Multi-Pronged Domed Spring	USA	US Application Serial No. 10/035,668  Filed 9-Nov-2001
Artificial Intervertebral Disc Having an Arched Spring Force Restoring Element	PCT	PCT Application Serial No. PCT/US02/19656  Filed 19-Jun-2002
Intervertebral Spacer Device Having a Wave Washer Force Restoring Element	USA	US Patent No. 6,468,310  Issued 22-Oct-2002
Intervertebral Spacer Device Having a Spiral Wave Washer Force Restoring Element	USA	US Application Serial No. 09/906,118 (Allowed Claims)  Filed 16-Jul-2001
Artificial Intervertebral Disc Having a Wave Washer Force Restoring Element	PCT	PCT Application Serial No. PCT/US02/19659  Filed 19-Jun-2002
Artificial Intervertebral Disc Having a Wave Washer Force Restoring Element	USA	US Application Serial No. 10/177,377  Filed 21-Jun-2002

**Attachment A (Short Form Assignment and Assumption Agreement)**

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
<b>Intervertebral Spacer Device Having a Wave Washer Force Restoring Element</b>	USA	US Application Serial No. 10/272,580  Filed 16-Oct-2002
<b>Artificial Intervertebral Disc Having a Spider Spring Force Restoring Element</b>	PCT	PCT Application Serial No. PCT/US02/19651  Filed 19-Jun-2002
<b>Artificial Intervertebral Disc Having a Spider Spring Force Restoring Element</b>	USA	US Application Serial No. 10/177,378  Filed 21-Jun-2002
<b>Intervertebral Spacer Having a Flexible Wire Mesh Vertebral Body Contact Element</b>	USA	US Application Serial No. 10/128,619  Filed 23-Apr-2002
<b>Artificial Intervertebral Disc Having a Flexible Wire Mesh Vertebral Body Contact Element</b>	USA	US Application Serial No. 10/140,153  Filed 7-May-2002
<b>Artificial Intervertebral Disc Having a Deformable Wire Mesh Vertebral Body Contact Element</b>	PCT	PCT Application Serial No. PCT/US02/19657  Filed 19-Jun-2002
<b>Instrumentation and Methods For Use In Implanting an Artificial Disc</b>	USA	US Application Serial No. 10/282,356  Filed 29-Oct-2002
<b>Method of Surgically Treating Scoliosis</b>	USA	US Patent No. 6,447,548  Issued 10-Sep-2002
<b>Trial Intervertebral Distraction Spacers</b>	USA	US Application Serial No. 09/906,119  Filed 16-Jul-2001

**Attachment A (Short Form Assignment and Assumption Agreement)**

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
<b>Insertion Tool For Use With Trial Intervertebral Distraction Spacers</b>	USA	US Patent No. 6,428,544 Issued 6-Aug-2002
<b>Insertion Tool For Use With Tapered Trial Intervertebral Distraction Spacers</b>	USA	US Patent No. 6,478,801 Issued 12-Nov-2002
<b>Porous Intervertebral Distraction Spacers</b>	USA	US Patent No. 6,471,725 Issued 29-Oct-2002
<b>Surgical Method of Treating Scoliosis</b>	USA	US Application Serial No. 09/906,124 Filed 16-Jul-2001
<b>Method of Distracting Vertebral Bones</b>	USA	US Patent No. 6,436,102 Issued 20-Aug-2002
<b>Vertebral Bone Distraction Instruments</b>	USA	US Application Serial No. 09/906,126 Filed 16-Jul-2001
<b>Instruments for Reorienting Vertebral Bones for the Treatment of Scoliosis</b>	USA	US Application Serial No. 09/906,134 Filed 16-Jul-2001
<b>Insertion Tool For Use With Intervertebral Spacers</b>	USA	US Application Serial No. 09/906,127 Filed 16-Jul-2001
<b>Insertion Tool For Use With Trial Intervertebral Distraction Spacers</b>	USA	US Application Serial No. 10/115,751 Filed 3-Apr-2002
<b>Method of Distracting Vertebral Bones</b>	USA	US Application Serial No. 10/222,332 Filed 16-Aug-2002
<b>Method of Surgically Treating Scoliosis</b>	USA	US Application Serial No. 10/223,146 Filed 19-Aug-2002

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<b>Title</b>	<b>Country</b>	<b>Particulars</b>
Porous Intervertebral Distraction Spacers	USA.	US Application Serial No. 10/223,148  Filed 4-Oct-2002
Insertion Tool For Use With Tapered Trial Intervertebral Distraction Spacers	USA	US Application Serial No. 10/223,147  Filed 19-Aug-2002
Static Trials and Related Instruments and Methods for Use in Implanting an Artificial Intervertebral Disc	USA	US Application Serial No. 10/309,585  Filed 4-Dec-2002
Femoral Ring Loader	USA	US Patent No. 6,440,142  Issued 27-Aug-2002
Distraction Instrument for use in Anterior Cervical Fixation Surgery	USA	US Application Serial No. 10/003,000  Filed 30-Nov-2001
Spacer Device and Insertion Instrument for use in Anterior Cervical Fixation Surgery	USA	US Application Serial No. 10/001,531  Filed 30-Nov-2001
Femoral Ring Loader	USA	US Application Serial No. 10/075,688  Filed 13-Feb-2002